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a story of path dependency and less successful implementation

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Recovery Plans and the Common Fisheries Policy – A story of path dependency and less successful implementation

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Introduction

The adoption of multi-annual recovery plans for a number of fish stocks is the latest attempt to promote sustainable fisheries management in the European Union (EU; Union)[1] and has become an integrated component of the Common Fisheries Policy (CFP). In this article we examine how administrative procedures around the CFP and its implementation and following unforeseen problems have led to the adoption of this specific management tool.

The paper describes how historical events have to a considerable extent shaped the future course of the CFP – a process commonly referred to a path dependence. That the political process is path-dependent – a key concept of the social theory of (historical) new institutionalism - means that choices made at an earlier stage have decisive impact on the choices, which are perceived as possible or plausible at a later stage. In other words, *"once actors have ventured far down a particular path, they are likely to find it very difficult to reverse course* […] *The 'path not taken' or the political alternatives that were once quite plausible may become irretrievably lost"* (Skocpol and Pearson 2002, p. 665).

The paper provides an account of how decisions taken and subsequent developments of the CFP in previous years have influenced subsequent decisions. It is, however, considered too narrow to focus on administrative procedures in isolation as they need to be seen in a broader political context. The article therefore examines the different political positions surrounding the proposal and decision to adopt the recovery plans in their current shape.

The CFP was adopted January 25th 1983 by introducing a fisheries conservation policy to complement the already adopted structural, market and external policies. This marked the completion of a comprehensive package of fisheries policy regulations, which had been in the making for more than 15 years. Although the CFP has been reformed twice since 1983 one can reasonably argue that the period up to 1983 can be considered the period where the main political decisions were taken, and the period from 1983 and onwards the period of implementation. Although the basic legal provisions of the CFP were revised in 1992 and 2002 they are today basically based on the same fundamental principles as when the CFP was adopted in 1983.

To set the scene for our further analysis, we initially provide a brief introduction of the main actors and decision-making procedures relating to the CFP. This is followed by a description of the process leading up to the adoption of the conservation policy in 1983. Then we investigate problematic implementation / administration of the CFP from 1983 to 2002, which made it necessary to integrate recovery plan schemes, which we look at the content and innovative components of. Finally, we discuss our results and the implications in terms of fisheries management in EU from an administrative perspective.

The Common Fisheries Policy

The CFP is a European Union policy framework consisting of four pillars: conservation policy, structural policy, market policy and external issues. The focus of this article will be the conservation policy (including control and enforcement) and the structural policy. [2]

[1] We have chosen generally to use the term European Union, although in a historical context the term European Community would technically be more correct in some cases.

[2] For those interested in a general introduction to the CFP, we refer to Lequesne, C. (2000). The Common Fisheries Policy. Letting the Little Ones Go? Policy-Making in the European Union. H. Wallace and W. Wallace. Oxford and New York, Oxford University Press: 345-372.

The conservation policy aims to ensure that stocks remain at healthy levels and the main instruments used are fixed total allowable catches (TACs) for the most important species and technical conservation measures. The TACs are divided into national quotas, where member states are being allocated the same fixed percentages of the TAC every year – creating what is known as *the relative stability.* This was the most sensitive part of the political negotiations leading to the agreement on the CFP. The member states are responsible for the domestic allocation of their share of the quota.

The TAC system is supported by a number of technical measures, which are directed mainly at preventing (by-) catch of juvenile fish or non-target species. Connected to the conservation policy is a policy for control and enforcement, which seeks to ensure that CFP regulations are respected. It should be emphasised that efficient control / enforcement structures is a precondition for effective implementation and administration of the CFP irrespectively of the approach adopted within the conservation policy.

The aims of the structural policy are to ensure that industry can face international competition, increase productivity, provide a fair standard of living for those who depend on fishing for their livelihood and guarantee regular supplies at reasonable prices for consumers by adapting and managing the structural development of the fishing industry and processing and marketing of fish and fish products. This is done through Multi-Annual Guidance Programmes (MAGP), which implementation is supported financially through the Financial Instrument for Fisheries Guidance (FIFG).

The two main institutional actors in the decision-making system regarding the CFP are: 1) the Agriculture and Fisheries Council of the European Union (CEU; Council), which consists of the relevant ministers from the EU member states and serves as the main legislator in the area of fisheries, and 2) the Commission of the European Communities (CEC; Commission) / Directorate General for Fisheries and Maritime Affairs (DG Fish), which serves as the EU bureaucracy seeing to the day-to-day management. The Commission has significantly more authority and political power than a traditional national bureaucracy. It is for instance - as the sole institution - authorised with initiating, drafting and proposing legislative acts in the area of the CFP. The Commission takes furthermore active part in the negotiations in the Council, although without the right to vote. This means effectively that it is not possible to draw a clear line between the political system and the bureaucracy / administration in the context of the CFP - and it means, furthermore, that inter-institutional struggles between the Council and the Commission over where the line should be drawn in relation to responsibilities and competences are not uncommon; conflicts of this nature is often referred to as inter-institutional struggles.

The process by which legislation is adopted in the area of the CFP follows in most cases a track whereby proposals are initially drafted by DG Fish to a varying extent in light of advice received from scientists or other stakeholders.[3] The Commission's proposal is then submitted to the European Parliament (EP), which has the right to be heard on most acts relating to the CFP. In light of the response of the EP the Commission can – but is under no obligation to – amend the proposal before the negotiations within the Council, which is the final step of the legislative procedure. The Council consists as earlier mentioned of the relevant ministers from all the EU member states. Legislative acts relating to the CFP are adopted by qualified majority voting (QMV), which means

[3] For an account of how scientific advice and other types of knowledge feeds into the decision-making process, see Hegland, T. J. (2006). Fisheries Policy-Making: Production and Use of Knowledge. The Knowledge Base for Fisheries Management. L. Motos and D. C. Wilson. Oxford and Amsterdam, Elsevier: 219-237.

that no single member state can block proposals.[4] In case of disputes the Court of Justice of the European Communities (ECJ) rules on the interpretation of CFP legislation.

Towards a Common Fisheries Policy

To understand the evolution of the CFP and the adoption of the scheme for recovery plans it is necessary to investigate the fundamental principles that have guided the adoption and evolution of the CFP even before the first legal acts relating to the CFP in 1970. These decisions set the path for the direction of fisheries policy and management in EU. In this respect the international fishery commissions have indirectly had significant influence on the direction of the CFP.

The Atlantic Commissions

Gezelius (Forthcoming) describes how discussions in the second half of the 1960s within the North East Atlantic Fisheries Commission (NEAFC) and its twin commission, the International Commission for the Northwest Atlantic Fisheries (ICNAF), in response to a growing concern of overfishing led to the decision to favour the use of catch limitations in the form of quotas rather than effort regulation.

NEAFC is the framework for international cooperation on the conservation of fish resources in the North East Atlantic waters outside the national fishing zones, which were in the end of the 1960s rather narrow, extending only 12 nautical miles (nm) off shore. The fact that the national zones were as narrow as they were meant that conservation was essentially an international issue. According to Gezelius (Forthcoming) NEAFC and ICNAF consequently "*became the arenas for the development of modern resource management"*, which in the longer perspective made it all the more important when the commissions in the late 1960s opted to restrict fishing activities through catch control (outputs limitation) rather than introducing restrictions on input. Until that point in time conservation instruments had primarily been technical measures in the form of mesh sizes, minimum size limits for various species, closed seasons etc.

Among the arguments, which tipped the decision in favour of catch quotas, was the focus on controlling fishing mortality. It is difficult directly to relate fishing mortality and fishing effort, whereas it was assumed that introducing catch quotas automatically will control fishing mortality. In addition, the development within marine science at the time was refining tools and models (i.e. the so-called cohort analysis) to estimate TACs, which favoured output control in terms of catch quotas. Consequently, from the end of the 1960s until the first half of the 1970s the commissions successfully worked on implementing a TAC-based approach for the North Atlantic. As mentioned above, an important element of implementation of fisheries regulations independently of the specific tool is to ensure compliance and that effective enforcement mechanisms are in place. In this respect it is generally acknowledged that the commissions were less successful in enforcing the measures and ensure compliance of the introduced regulations.

Since the late 1960s fisheries management has in practice become about TACs management and this has set a precedent that has had major influence on policy negotiations and decisions in the following decades, not least in the process of leading to the adding of a conservation policy to the CFP in 1983. However, before turning to that let us return to the implications of the first CFP measures adopted in 1970.

[4] For a detailed description of the QMV procedure and rules, see http://europa.eu.int/institutions/council/index_en.htm [accessed 25 April 2006].

The First EU Fisheries Policy Regulations

In 1966 the Commission drafted in response to the requirements of the Treaty of Rome proposals for common policies for structures and markets relating to fisheries resources; the two regulations were, however, not adopted by the Council before 1970 - and then only after long and hard negotiations. Especially a provision for 'equal access' contained in the structural policy regulation turned out to have immense importance in relation to the development of a conservation policy of the CFP. Equal access entails that, as a general rule, vessels from one member states have the right to fish inside the territorial waters of any of the other member states – in principle this means 'fishing up to the beaches'.

However, due to upcoming accession negotiations with United Kingdom (UK), Norway, Denmark and Ireland the former six member states were finally able to arrive at a political agreement on the two CFP regulations including equal access on 30 June 1970. This agreement should be in place until 31 December 1982. The six original member states were well aware that it was in their own interest to reach an agreement before the enlargement came in to place. The agreement would then be part of the *acquis communautaire*[5], which the applicants had to accept when joining the EU.

It was agreed to deviate from the principle of equal access by allowing member states to restrict access within the six nm zone. In areas heavily dependent on fishing the limit was extended to 12 nm (Leigh 1983).[6] [7] The provision for equal access remains today one of the fundamental principles underlying EU fisheries management. That even this fundamental principle of the CFP was adopted as part of a manoeuvre to achieve a favourable position prior to an enlargement illustrates the importance of the fact that the EU is a collective of states rather than an ordinary, unitary state. Deliberations and decision-making related to fisheries management is, consequently, subjected to a set of processes and incentives, which does not apply to fisheries management in a unitary state.

According to Leigh (1983, p. 31) the adoption of the principle of equal access was not a requirement of the Treaty of Rome and the decision was therefore *"a political one and not a legal obligation"*. The obvious alternative to equal access would according to Leigh (1983) and Churchill (1977) have been the principle of 'freedom of establishment', which would have left the concerned member states in more control of their territorial waters.

Moreover, the structural policy regulation instituted the principle that the European Union should be responsible for conservation in territorial waters. The full implications of this provision were hardly recognised at the time of adoption as the national fishing zones were rather narrow and conservation therefore essentially an international issue, as mentioned earlier. This was, however, going to change dramatically during the 1970s (Leigh 1983).

The fact that agreement between the six original member states came on the very same day as the enlargement negotiations were initiated did not go unnoticed. Norway, Denmark, the UK and Ireland all have significant fisheries interests. Especially Norway and Ireland had rich fishing grounds within their national fishing waters and were upset about the provision for equal access. The UK was critical too, but its negotiating position was affected by a well organised distant water fishing industry, which saw the provision as a protection of UK fishing interests off the Norwegian coast in the event of a future extension of the national fishing zones. As it turned out the issue of fisheries attracted little popular interest in Ireland, which joined the EU after a comfortable yes-vote

[5] The body of EU laws.
[6] Certain historical rights enjoyed by other member states remained applicable even within the special 12 nm zones.
[7] For a thorough account of the geographical areas affected by the 12 miles derogation and the discussions over this issue, we refer to Wise, M. (1984). The Common Fisheries Policy of the European Community. London and New York, Methuen.

in a referendum. In contrast the Norwegians voted no in a referendum where the issue of fisheries proved important. This left the UK, which entered the Union without a referendum, deprived of the expected benefits of equal access in Norwegian waters. This affected the UK position and willingness to compromise in later CFP negotiations (Leigh 1983).

The Changing International Environment

In the middle of the 1970s the international setting for fisheries management changed dramatically over a relatively limited number of years when coastal states, mainly in light of the increasing awareness of the risk of overfishing, began claiming larger exclusive fishing zones (EFZ). Iceland was the forerunner in this respect, but this quickly became the trend and by the mid-1970s it was relatively clear that the final outcome of the international negotiations on the issue would be the general institution of exclusive economic zones (EEZ) of 200 nm.

As a result of the changing international environment the EU member states - in a concerted action agreed upon by the Council in The Hague on 30 October 1976 - extended their EFZs to 200 nm as from 1 January 1977. This meant that the EU and its member states were effectively responsible for areas large enough to make conservation of resources a significant 'domestic' issue. Whereas the decision to extend the EFZs and other decisions contained in the so-called Hague Resolutions, which were the outcome of the Council meeting, created a centralised EU external fisheries policy, it was not at that time possible to reach consensus on the arrangements for a conservation policy. The Commission had proposed a system of TACs divided into national quotas in continuation of what was known from for instance NEAFC (Leigh 1983; Wise 1984). The Commission did not propose any limitation of fishing effort besides a licensing system for fishermen. The question of not emphasising fishing effort limitations do not seem to have caused much debate but it has to be noted that critical comments were, nonetheless, expressed towards the perceived failure to sufficiently address the effort issue:

> *"Previous experience with the quota schemes of international fishery commissions has shown that licensing and checks on landings, although helpful, are easily evaded. What is needed is a limitation on effort."* (Churchill 1977, p. 34)

As a consequence of the failure to reach agreement on a conservation policy the Hague Resolutions contained provisions that authorised the member states - in consultation with the Commission - to adopt non-discriminatory conservation measures to protect resources in the fishery zones off their coastlines. These provisions were to provide the main mode of instituting EU conservation measures in the period from 1976 to 1983. One last noticeable element of the agreements was the 'Hague preferences', which stipulated that when implementing the CFP the Union should take into account the needs of local communities most heavily dependent on fishing. These areas included Ireland, parts of northern UK and, finally, Greenland[8] (Leigh 1983; Wise 1984).

The CFP becomes a reality

In the negotiations in The Hague and the subsequent discussions leading up to the eventual adoption of a conservation policy in 1983, especially Ireland and the UK were pitted against the other member states with a demand for exclusive national zones extending up to 50 nm. The Commission proposed initially in 1976 a system of exclusive national zones of 12 nm. This was on one hand not acceptable to UK and Ireland, which as mentioned favoured larger zones; on the other hand other member states - most vigorously France - argued that the national zones adopted in connection with the accessions of 1973 were derogations valid only until 1983 and that equal access ultimately ruled

[8] Greenland left the EU in 1985.

out the possibility of having exclusive national zones. In the end a compromise was found, which entailed that equal access as decided in 1970 should continue to apply in the waters of the EU member states. However, the member states would be allowed to reserve the waters within 6 nm off the coast for their own nationals; the waters between 6 and 12 nm would also primarily be reserved for the member states' fishermen but member states with historic rights could continue a limited fishery. The derogations to equal access within the 12 nm zone would apply for ten years and be renewable for another ten, i.e. to the end of 2002 (Leigh 1983).

The discussion over access was obviously strongly interlinked with the second big issue relating to the conservation policy, namely the adoption of TACs and the subsequent allocation of national quota shares, which was seen as necessary for the TAC system to work without creating an unsustainable 'race for fish'.[9] As mentioned earlier the TAC system was from an early stage favoured over some sort of effort system mainly due to the managers' familiarity with it from the Atlantic commissions. However, it proved difficult to reach an agreement:

> *"The reason for the long delay in reaching agreement is not hard to discover. For the apparently technical rubric 'TACs and quotas' disguises a political problem of resource distribution between member states. The sum of member states' demands added up to more than the total amount of fish available. In the bad old days when this situation arose in the fishery commissions it led to the inflating of TACs, followed by overfishing. In the Community the excess of demand over supply led to a prolonged debate about the criteria for distributing quotas among member states and about the sharing out of specific stocks."* (Leigh 1983, p. 90)

In retrospect it is easy to see that it was not only in the 'bad old days' that the excess of demand over supply led to inflated TACs; the Council inherited this practice…

The conservation policy of the CFP, which was finally adopted on 25 January 1983, included the above mentioned compromise in relation to the access provisions. In relation to TACs and quotas allocation keys for the different stocks were found. These keys built on the consideration of three elements: historic catches of the different stocks by different member states; the Hague preferences, which favoured Ireland, the UK and Greenland; and compensation for jurisdictional losses, which referred to the losses incurred by some member states, particularly Germany and the UK, when non-member states extended their EFZs (Leigh 1983). The agreed system of allocation keys remains today virtually unaltered[10] and stands - referred to as 'the relative stability' - as one of the most fundamental elements of the CFP.

Finally, in connection with the conservation policy a control regulation was adopted in 1982, which provided the Commission with some powers in relation to overseeing the control efforts of the member states. However, the powers of the Commission were relatively limited. When looking at contemporary accounts of the CFP negotiations it is striking how little attention the control issue attracted in the beginning of the 1980s. The difficulties of agreeing on the basic principles seem to have overshadowed the discussions of how to properly enforce the system. That the question of proper enforcement is pivotal had nevertheless been confirmed by the experiences in the Atlantic commissions.

Despite all the difficulties the EU managed to adopt a relatively coherent CFP, which should first and foremost be able to control fishing mortality by the adoption and enforcement of TACs for a long range of stocks. Moreover, a structural policy was in place, which should enable the EU to move towards a balance between resources and capacity. However, today we know that there was

[9] The discussion over allocation of quotas took more than six years and is to some extent rather technical. We will not in this paper go in to a detailed description of it but rather refer the interested reader to Wise, M. (1984). The Common Fisheries Policy of the European Community. London and New York, Methuen.

[10] Besides the necessary additions in relation with enlargements.

no reason for any particular optimism. The main political hurdles might have been passed by 1983 but the CFP was not going to prove easy to implement and administer.

1983 to 1992 – Muddling through without change!

Neither the conservation policy (including control and enforcement) nor the structural policy, which are the two policies we focus on in this article, were in the years following 1983 implemented and administered in a coherent manner nor did they ensure sustainable and efficient utilisation of the fish stocks in EU waters. The consequence hereof was that the problems of overcapacity and overfishing escalated further after 1983.

The structural policy was to a large extent based on the idea of 'auto-sufficiency', which was also a major driver in the creation of the Common Agricultural Policy. The idea of auto-sufficiency relates to the fact that after the end of World War II the people of mainland Europe starved; increasing the internal capacity to provide food should ensure that this did not happen again. This led to an emphasis on catching more fish, i.e. by providing grants to expand and increase the fleet, without any particular consideration to the impact on the long-term sustainability of the fish stocks. This, which was likely a reflection of the notion of the sea being inexhaustible because of its vastness, caused a massive increase in the fishing capacity of the EU fleet. The increase from 1970 to 1983 was more than 60 percent in terms of gross registered tonnage (GRT) and considerably more in terms of kilowatt (kW) engine power (Holden 1994; Commission of the European Communities 1997; Lindebo 2003).

That it was possible to expand fishing capacity without significant negative economic consequences for the individual fishermen might to some extent be due to the fact that a number of fish stocks upheld abnormally high recruitment rates from the mid-1960s and until the beginning of the 1980s. This camouflaged the magnitude of the problems of overcapacity in the fleet and made continuous increase in catches beyond 'normal' or sustainable level possible (Holden 1994). Holden (1994) offers two explanations to why nobody within the system was able to foresee the problems and the subsequent problems it caused even though the risk of overfishing was well documented at the time. Firstly, until 1978 there was effectively no expertise on fisheries issues in the Commission to warn against this situation. Secondly, nearly all member states benefited from the funds and had no immediate interest in stopping the arrangement. However, contrary to what might have been expected the development continued even in the years after the adoption of the conservation policy.

By the early 1980s (some) awareness of the need to control fishing capacity had penetrated into the system. This led to the adoption of a series of programmes, the MAGPs, aimed towards balancing the fishing capacity of the different member states' fleets to the size of the fish stocks. All MAGPs have primarily been setting targets for the future size of the fleets in terms of GRT and kW for each member state. MAGP I in place from 1983 to 1986 and the targets it set were modest and aimed basically at keeping capacity constant. Nonetheless, all but two member states failed to reach their targets and overall fleet capacity continued to increase. The EU had no experience with implementing such programmes and fleet registers and methods to measure the capacity of the member states were incomplete and inconsistent across member states. Although MAGP I was a rather limited success, it does stand as the first concrete expression of the wish to restrict the increase in fishing capacity and as such it was an indication of a fundamental, although insufficient reorientation (Holden 1994; Lindebo 2003).

Paradoxically, the financial funds allocated under the structural policy's FIFG continued to be awarded mainly for the construction or modernisation of vessels while the amounts spent on reducing capacity through scrapping programmes were negligible in comparison. This situation

lasted at least until 1987 after which the Commission according to Holden[11] (1994) took a more rigorous approach and only approved grants for construction of vessels to the member states, which had met their MAGP targets.

For various reasons the conservation policy was likewise in the first years after 1983 not implemented in a way that really approached the problems, even though these were increasingly recognised. As described above, the negotiations on the conservation policy had been lengthy and extremely complicated. This caused the Commission to choose a cautious road when suggesting TACs in order to give the fragile compromise time to settle. Furthermore, in the first years the TAC agreements were well behind schedule. The TACs adopted at the meeting on 25 January 1983 were those of 1982; those for 1983 were not adopted before late in the year. The TACs for 1984 were adopted on 31 January 1984 and, finally, those for 1985 were adopted before the end of the year before as has been case since. In these first years the TACs proposed by the Commission basically reflected the actual fishing mortality at the time – and that level of fishing mortality was not biologically sound. In 1985 the negotiations for the TACs for 1986 were affected by the accession of Spain and Portugal, which took place on 1 January 1986. An agreement on quota allocations to the two new member states was concluded but at the cost of setting TACs well above historic catches. In terms of using TACs to restricts fishing mortality these first years were to a large extent wasted and served consequently as nothing more than an opportunity to get the TAC-instrument accepted and institutionalised (Holden 1994). Moreover, the TACs and quotas were hardly enforced in the early years. This meant that the recorded landings did not in any way reflect the actual landings, which were much higher. This meant that fishing mortality was effectively underestimated, which also served to disguise the problems created by the mismatch between fishing capacity and the resources available in the longer term.

It is therefore reasonable to conclude that even though a relatively coherent policy was adopted in 1983 the first years hereafter were lost in terms of sustainable fisheries management because of ineffective and inconsistent implementation / administration. Rather, the period served basically - although the importance of this should not be underestimated - to get the newly adopted CFP package institutionalised. It is noteworthy that most of the deficiencies in the implementation practice of this period can be traced back to the problems of getting a number of different countries to cooperate. The reluctance to propose reasonably restrictive TACs was mainly based on the fear of destroying a fragile compromise, which it had taken several years of negotiation between the member states to agree on. Moreover, the failure to halt the increase in fishing capacity was to a large extent the result of the administrative difficulties of implementing programmes aiming at capacity reduction in many different member states with a number of different recording and reporting practices.

MAGP II, in place from 1987 to 1991, reflected the experience of the first MAGP where only few of the member states had reached their target. The Commission outlined a programme where the reductions to be achieved over the period was as modest as 3 percent in tonnage and 2 percent in power. When the increases in efficiencies coming from technological development are taken in to consideration this corresponded *de facto* to an increase in fishing capacity. According to Holden (1994) the Commission stuck to modest targets – even though problems with fish stocks were now obvious - in order to at least accustom the member states to the idea of decreasing capacity, something which might facilitate compliance with more ambitious targets in later programmes. However, only five member states managed to reach even these modest targets and the Community

[11] It should be noted that Mike Holden held various, prominent positions in DG fish in the period from 1979 to 1990, which naturally could incline him to put the actions of the Commission in the period in a favourable light.

continued in the period to provide funds for construction of vessels which by far outweighed the funds deployed for scrapping. This meant that overall capacity continued to increase (Holden, 1994; Lindebo, 2003). According to the Commission the main limitations of the two first MAGPs included the following:

> *" - Insufficient classification of the fleet into categories related to the species caught, fishery zones and methods of fishing;*
> *- monitoring of the fleet based on a limited number of physical capacity parameters only, without any consideration of the remaining parameters and fleet activity (fishing effort);*
> *- absence of short- and long-term objectives based on the actual situation of particular stocks;*
> *- lack of statistical data and inadequate measures to control fishing capacity and fishing effort;*
> *- non-obligatory status of the programmes."* (Commission of the European Communities 1991, p. 28)

Holden (1994) points moreover to a specific problem in implementing the programmes, namely the fact that the member states weeded out from the registers mainly the vessels, which fished very little or not at all. Whatever reasons the consequence was that fishing capacity - or fishing mortality - did not decrease as a consequence of MAGP I and II.

The setting of TACs in accordance with the scientific advice continued to be problematic as well. A number of specific issues[12] demanded the attention of the Fisheries Council in the end of the 1980s and resulted in less attention to the question of the sustainable size of TACs. Furthermore, almost as usual some of these specific issues were 'best' solved by setting the TACs above the scientific advice. That it had not been possible to stop the increase in capacity was clearly not the best background upon which to agree on cuts in TACs either. Holden describes the basic mechanism of TAC-setting in this way:

> *"It is not surprising that the level of TACs is mainly determined by political decisions because politicians regard it as their responsibility to respond to the pressures from their fishing industries as they consider fit. That is democracy in action. Account is taken of the scientific advice but more often than not it has been disregarded for socio-economic reasons, which is little more than coded language for saying 'avoiding political unpopularity'. Only when the consequence of disregarding the scientific advice would appear to be calamitous has it been acted upon, but often then not rigorously."* (Holden 1994, p. 70)

Holden might as well have been writing today. Nevertheless and in all fairness, the Commission has since the 1991 adopted a new strategy for proposing TACs, and more is now in line with the scientific advice provided. However, this did in general not immediately change the actual size of TACs as the Council continued its policy of adopting larger TACs than suggested by the Commission. Moreover, enforcement of TACs and quotas remained a problem. The changing attitude within the Commission, which can mainly be attributed to personnel changes, coincided with the publications of two reports, which in very specific terms recognised and outlined the problems of the CFP.

The first was the 'Gulland report' (Gulland 1990), which was the outcome of an expert committee set up by the Commission to advice in relation to the preparation of MAGP III and systematically documented and for the first time set figures on the overcapacity of the EU fleet. The report concluded that fishing mortality had to be reduced with 40 percent. As a consequence the report recommended that fishing for demersal stocks be reduced with 30 percent and fishing for benthic stocks with 20 percent. Fishing for pelagic stocks was not affected by the recommendations from the Gulland report (Gulland 1990 in Lindebo 2003).

[12] Svalbard cod, western mackerel, and North Sea cod and haddock. See Holden, M. (1994). The Common Fisheries Policy - Origin, Evaluation and Future. Oxford, Fishing News Books, Blackwell Scientific Publications Ltd.

However, the Commission used the Gulland report to back its proposals and the Council agreed on significant capacity reduction targets for MAGP III in place from 1993 to 1996[13] to reduce fishing effort corresponding to 20 percent for demersal stocks and 15 percent for benthic stocks; fishing effort for pelagic stocks was kept unchanged. This was less than recommended by the scientists but still substantial. In contrast to previous programmes the reductions were not expressed in capacity but in fishing effort – a product of capacity (GRT), engine power (kW) and number of days at sea. The member states could thereby choose to achieve part of their reduction by reducing the number of days-at-sea for vessels. Furthermore, in contrast to the previous programmes MAGP III aimed at the largest reductions for the fleets, which targeted the most threatened stocks (Lindebo 2003).

In 1991 the Commission published 'Report 91' (Commission of the European Communities 1991) containing a review of the CFP based on the experiences from 1983 to 1990. Report 91 was meant to stimulate and provide guidance for a debate in the various Community institutions and other bodies in order to enable the Commission to propose new rules for the period from 1993 to 2002 during 1992 (Commission of the European Communities 1991, p. I). Report 91 outlined a number of problems with the performance of the CFP from 1983 to 1990 and stated that in general terms the stocks were in danger because of excessive fishing mortality, which also affected fishermen's income negatively.

Furthermore, the Commission concluded that there was large overcapacity in the EU fleet and that most fleets had to reduce their level of activity. This was described as a latent sectoral crisis. As a consequence the Commission concluded that "[p]*resent mechanisms are inadequate*" (Commission of the European Communities 1991, p. III).

The Commission identified a number of problems, which had contributed to the situation. These problems included: the exclusive reliance on TACs and quotas without any real control over fishing capacity, which led to led to a race for fish and discarding at sea; the lack of political will to ensure that the regulations were complied with; the lack of coordination and coherence between the different parts of the CFP, etc. Finally, the Commission warned about the consequences of not taking action:

> *"If no mandatory decisions are taken to restructure the industry and significant reduce fishing effort, with emphasis on the 'at risk' fisheries, the fishing sector and connected activities risk causing a real and irreparable tear in the socio-economic fabric of the coastal and island regions heavily dependent on fishing."* (Commission of the European Communities 1991, p. 60)

The Commission identified furthermore 7 main areas where the CFP could be improved. Most of the identified areas related to the setting of TACs, getting capacity under control or control and enforcement:

> *"- distribution of responsibility at all levels, in accordance with the principle of subsidiarity, conferring responsibility on the parties concerned, in particular the fishermen's organizations which could be given the task of implementing the management measures at the appropriate level;*
> *- more stringent regulation of access to resources by a system of licenses in order to rationalize fishing effort (by zone, species, fisheries, etc.) cutting back excess capacity and improving the planning of fishing so as to reduce over-investment and economic inefficiency;*
> *- a new classification of fishing activities (multiannual, multispecies, and analytical TACs, as appropriate), definitions being based on existing rights and the economic and social characteristics of each fishery;*
> *- more stringent control mechanisms, using modern technologies for vessel location and communication of information, in order to monitor the movements of certain vessels and inform the authorities concerned, while coordinating the information obtained;*

[13] A one-year transitional programme was adopted for 1992 to provide time for negotiations in the Council after which MAGP III was amended for the period from 1993 to 1996, see Lindebo, E. (2003). Fishing Capacity and European Union Effort Adjustment. Measuring Capacity in Fisheries. S. Pascoe and D. Gréboval. Rome, Fao: 57-80.

- *enforcing compliance with rules which are in the common interest, ideally through economic incentives encouraging good behaviour by fishermen (use of selective gear, compliance with landing standards), and deterrent sanctions at Community level (penalty quotas, withdrawal of licenses, withholding of aid, fines);*
- *stronger structural management, by segmentation of the fleet, on the basis of new parameters, providing a basis for the assessment and control of fishing effort, and inclusion of structural measures under the umbrella of the reform of the structural Funds;*
- *greater synergy between management of internal and external resources, other sources of supply and market management."* (Commission of the European Communities 1991, p. V)

According to Raakjær Nielsen (1993) Report 91 clearly stated that the main problem for the CFP is that it does not ensure rational utilization of the fish resources. The instruments used in the past have created a severe overcapacity in the fleet. Thus, Report 91 first and foremost focused on conditions that contribute to a more appropriate utilization of the fish resources in EU waters. Report 91 strongly emphasised the need to ensure a coherent balance between fishing capacity and activity and the size of the stocks focussing on capacity reduction. Instruments, which would facilitate this development, were suggested. These included for instance multi-annual and / or multi-species TACs. Economic incentives to ensure a more appropriate utilization of the fish resources were proposed but the Commission did not provide any guidelines on how to implement economic incentives in the management regulations.

Approaching the mid-term revision in 1992 nobody could be unaware of the severity of the situation and the steps, which should be taken to approach the situation. As just described the goals set under MAGP III were also considerably more ambitious than in previous programmes. However, the mid-term revision of the CFP and especially the way it was subsequently implemented turned out differently.

1993 to 2002 – Turning the Blind Eye to an emerging Crisis!

As described above it was not a shortage of challenges that plagued EU fisheries managers in the run-up to the revision of 1992. The Commission had identified a number of problems in Report 91 and, as a result, the Commission proposed a wider reform than what was required by the 1983 basic regulation, which merely stated that the rules of access were to be revisited. A number of new elements were consequently added to the basic regulation of the CFP in connection with the mid-term revision. The revised basic regulation entered into force on 1 January 1993 and some of the most important new features of it were: the prolonging of the exceptions to equal access until 31 December 2002, which was the only issue that the Council *had* to decide on; the introduction of the possibility to adopt multi-annual TACs; the introduction of the possibility of using days-at-sea to limit fishing effort; and the adoption of a scheme for developing an EU licensing system (Council of the European Communities 1992).

In reality the EU decision-makers have not utilised the possibilities of adopting days-at-sea restrictions or multi-annual TACs, which were mandated by the modified basic regulation adopted in 1992. The implementation of management based on days-at-sea failed mainly because of opposition to the idea of having both TACs and effort restrictions at the same time and because of the limited scientific ability to calculate the needed effort reductions. As for the question of multi-annual TACs the Commission actually came forward with a proposal in the course of 1993. However, the Council failed to take a decision in this respect mainly due to limitations in the scientific advice, which had been approved by authorised bodies, as well as opposition from the fishing industry (Commission of the European Communities 2001b).

As it turned out the most important new addition of the 1992 basic regulation became the licensing system, which was subsequently amended and expanded several times and improved the ability to monitor and guide the development of the EU fleet. However, without failing to appreciate the

importance of the licensing system it seems fair to argue that the progress achieved by the 1992 revision in the most pivotal areas was modest – the severity of the situation taken into consideration.

Following the revision of the CFP a new regulation on control measures was adopted in 1993 (Council of the European Communities 1993). Monitoring and control measures had for a long time been insufficient and the Commission stated in Report 91 that - as a result of the lacking political will in this respect -"[c]*ompliance with TACs and quotas had been very limited"* (Commission of the European Communities 1991, p. 22). The 1993 control regulation provided for a more integrated approach covering the different aspects of the CFP. The Commission powers in relation to overseeing the national monitoring authorities were strengthened and a requirement to impose dissuasive penalties was instituted. Moreover, the 1993 regulation opened for the possibility of using modern satellite based surveillance methods (Commission of the European Communities 2001b). The control regulation has been significantly amended over the years, most significantly in 1998. The satellite based vessel monitoring system (VMS) has, as an example, over time become a key element of the EU member states' monitoring efforts – incrementally being applied to more and more vessels. However, neither the 1993 regulation nor later amendments changed the balance between the member states and the Commission in this area. The member states remain more or less in control of monitoring and enforcement efforts.[14] However, as a result of the 2002 reform a Community Fisheries Control Agency is being set up in Vigo in Spain. This will most probably strengthen the uniformity and effectiveness of enforcement without actually taking over the national control agencies.

Overcapacity is the major driver for the enforcement problems within the EU fisheries sector. Therefore getting the capacity in balance with fishing opportunities must be seen as pivotal, since it - even with the newest available technologies - is an impossible task to monitor the fleets of the member states at all times. The capacity reduction programmes must therefore also be understood as an important effort to reduce the incentives for breaking the rules. However, in consideration of the stark conclusions of the Gulland report progress on this issue remained modest in the first half of the 1990s, which meant the control authorities did not get the necessary helping hand from that side. MAGP III led, nevertheless, to some reduction of the overcapacity of the EU fleet. According to the Commission's Green Paper form 2001 the overall cut in the fleet was around 15 percent in terms of GRT and 9.5 percent in terms of kW (Commission of the European Communities 2001b), details are provided in Table 1.

Table 1 Development of the EU Fleet 1991 to 2002 (excl. Finland and Sweden)

Year	1991	1996	1998	2000	2002
Tonnage of Fleet (1000 GRT)	2,010	1,964	1,945	1,951	1,900
Power of Fleet (1000 kW)	8,347	7,468	7,524	7,190	6,880
Figures for 1991 from Commission (1997) cited in Lindebo (2003), other figures from Eurostat (2006a; 2006b)					

[14] It should in this respect be noted that the Commission has the possibility to refer cases of non-compliance to the ECJ, whose judgements are binding on the member states. The penalties can in extreme cases be significant as this excerpt shows: *"The European Commission has welcomed this morning's decision by the European Court of Justice to request France to pay a lump sum of € 20 million and a periodic 6-month penalty of € 57,761,250 running from today, for failing to comply with a 1991 Court ruling on serious shortcomings in its enforcement of fisheries rules."* Commission of the European Communities. (2005). "Press release, 12.07.05: Commission welcomes Court ruling on continued failure by France to comply with fisheries obligations." Retrieved 12 June, 2006, from http://ec.europa.eu/comm/fisheries/news_corner/press/inf05_33_en.htm.

By the end of 1996 and MAGP III the EU fleet had, consequently, as a whole reached the targets but this masked the fact that some member states, notably the Netherlands and the UK, had failed to reach their individual targets. Furthermore, even though most member states had reached their overall targets this did not necessarily mean that the reductions to the required extent had taken place in the targeted fisheries (Lindebo 2003); as described earlier, MAGP III targeted the fleets fishing on the most threatened stocks. Thus, MAGP III did go some way in approaching the problem of overcapacity; however, the problem continued to be massive. Moreover, the member states, which reached their targets, could benefit from EU grants for vessel renewal and modernisation under the FIFG, something which added to the problem of increasing efficiency due to technological development.

In preparation of MAGP IV the Commission commissioned an expert report to follow-up on the Gulland report. The 'Lassen report' (Lassen 1995) as it became known documented once again that fishing pressure on a number of stocks was still much too high (Commission of the European Communities 1998). Nevertheless, the Council continued to fail to reduce the capacity sufficiently as in previous programmes - as documented by the Lassen report - and MAGP IV turned out yet again not to ensure an appropriate reduction of the capacity of the EU fleet. According to the Commission (2001b) the targets set were not even able to counter the increases in efficiency due to technological development. That the targets were in fact modest was also evidenced by the fact that the member states' overall targets were in general reached long before the end of the programme.

Two main issues were identified as reducing the effectiveness of the programme. One issue was the method used to calculate reductions in fishing effort:

> *"For MAGP IV, the Commission had proposed to cut fishing effort by 30% for stocks at risk of depletion and 20% for those overfished. The Council decided that, instead of applying the proposed reduction rates to the various sections of the fleet on the basis of the stocks targeted, these rates should be weighted according to the composition of the vessel catches. This system has the perverse effect that the more a stock is depleted, the lower the proportion of the catch is likely to represent, and the lower protection that stock receives under MAGP IV."* (Commission of the European Communities 2000)

A second issue was that part of the effort reduction on behalf of a member state could be achieved by means of days-at-sea schemes limiting fishing activity. These schemes were according to the Commission comparably difficult to control (Commission of the European Communities 2000).

The disappointing experiences with MAGPs led the EU to abandon these after MAGP IV and from 1 January 2003 as a result of the 2002 reform instead apply a strict, but relatively simple entry-exit regime.

As the EU approached the reform of 2002 the situation had consequently not been improved compared to before the revision of 1992. The problems were obvious and a wider reform was required. The reason why decisions-makers had failed to tackle the more and more obvious crisis of the resource base was probably related to the fact that in the last half of the 1990s and in the beginning of the millennium the fishing sector experienced favourable economic conditions, e.g. decreasing interest rates and increasing fish prices; had this not been the case, the fleet would most likely have been operating on the brink of bankruptcy. The favourable economic climate created a situation similar to the abnormally high recruitment of the stocks in the late 1970s. Thus, the fishing sector has twice been helped by external factors and avoided facing the consequences of too high fishing mortality. Although policymakers are not unaffected by evidence of problems of biological sustainability, they tend probably to be more affected by socio-economic concerns – and those concerns have to some extent been masked by external factors. Furthermore, many years of justifiable warnings about the looming crisis had created a situation similar to that in the story about

the boy who cried wolf. The severity of the situation was consequently not really acknowledged before the cod stocks were virtually on the verge of collapse.

As part of the preparation for the reform of the CFP in 2002 the Commission published the 'Green Paper on the future of the Common Fisheries Policy' (Commission of the European Communities 2001a) equivalent to Report 91. The Green Paper evaluated the CFP at the turn of the century, painted a dark picture and identified the sources of the problems:

> *"As far as conservation is concerned, many stocks are at present outside safe biological limits. They are too heavily exploited or have low quantities of mature fish or both. The situation is particularly serious for demersal fish stocks such as cod, hake and whiting. If current trends continue, many stocks will collapse. At the same time the available fishing capacity of the Community fleets far exceeds that required to harvest fish in a sustainable manner.*
> *The current situation of resource depletion results, to a good extent, from setting annual catch limits in excess of those proposed by the Commission on the basis of scientific advice, and from fleet management plans short of those required. Poor enforcement of decisions actually taken has also contributed to over-fishing."*
> (Commission of the European Communities 2001a, p. 4)

The reform that the Commission proposed in the aftermath of the discussion on the Green Paper was much more wide-ranging than the revision in 1992. Virtually no aspect of the CFP remained untouched. On several points the Commission proposed more extensive changes than what was adopted by the Council in the end. In this paper we will, however, not go into the specifics of the entire reform but only the dynamics surrounding the decision to adopt multi-annual recovery plans.

2002 Reform - Adoption of Recovery Plans and Hope for the Future?

One of the key outcomes and innovative changes in the reform of 2002 was the decision to adopt the scheme for recovery plans. On 19 December 2003 the European Union adopted a long-term recovery plan covering four cod stocks, including the most important in the North Sea (Council of the European Union 2004). This plan represented the first application of an instrument, which had been added to the 'toolbox' of the Common Fisheries Policy almost precisely one year before. The provisions for recovery plans were motivated by the alarming state of a number of stocks in the waters of the EU. The Gulland report and the Lassen report had both indicated that fishing mortality was much too high and needed to be reduced for most stocks in EU waters. The necessary decreases were typically estimated to be in the in the area of 40 percent for many stocks. In the 'Green Paper' the Commission reflected over the causes of the failure to successfully implement the TAC-system and thereby control fishing mortality:

> *"To control exploitation rates of fish stocks, the CFP has almost exclusively used upper limits on the quantities of fish which may be caught in a year (Total Allowable Catches or TACs and associated national quotas) and establishment of measures such as mesh sizes, closed areas, closed seasons (technical measures).* […]
> *Difficulties with TACs are due to the Council's systematic fixing, in some cases, at levels higher than indicated in the scientific advice, over-fishing, discards and illegal or black landings and to the over-capacity of the fleet. Moreover TACs can only play a limited role in the management of fisheries in which many species of fish are taken simultaneously by each operation of the fishing gear (the mixed or multi-species fisheries)."*
> (Commission of the European Communities 2001c, p. 8)

The objective of recovery plans is to ensure the recovery of stocks to within safe biological limits and they must specify target conservation reference points. Targets are expressed in terms of: (a) population size and/or (b) long-term yields and/or (c) fishing mortality rate and/or (d) stability of catches. Recovery plans are to be drawn up on the basis of the precautionary approach to fisheries management and take account of limit reference points recommended by relevant scientific bodies. They shall ensure the sustainable exploitation of stocks and that the impact of fishing activities on marine eco-systems is kept at sustainable levels. They may cover either fisheries for single stocks or fisheries exploiting a mixture of stocks, and shall take due account of interactions between stocks

and fisheries. The recovery plans shall be multi-annual and indicate the expected time frame for reaching the targets established (Council of the European Union 2002d).

Several novel elements are noteworthy in relation to the scheme for recovery plans; these include most importantly: that the recovery plans should be multi-annual, the possible application of harvest rules and the almost mandatory application of fishing effort limitations.

Firstly, the basic regulation requires that the recovery plans should be multi-annual in scope. This must be considered a key issue. A main problem of the conservation policy has allegedly been its failure to provide plans covering more than just a single year; something which has been criticised by both industry and green organisations.

Secondly, the article outlining the provisions for recovery plans includes a reference to the possibility of employing *"harvesting rules which consist of a predetermined set of biological parameters to govern catch limits"* (Council of the European Union 2002d, art. 5(4)). If adopted in accordance with scientific advice (and respected in the following years) harvest rules effectively rule out the Council's possibility of agreeing on TACs exceeding the biological advice; something that the Council has a reputation for doing (Commission of the European Communities 2001a).

Thirdly, the regulation states that the "[r]*ecovery plans shall include limitations on fishing effort unless this is not necessary to achieve the objective of the plan"* (Council of the European Union 2002d, art. 5(4)). Considering the prevailing problems of over-capacity of the fleet, discards and illegal landings this means *de facto* that fishing effort limitations must be applied in most recovery plans. Direct limitation on fishing effort (input-regulations) in combination with the overall restrictions of TACs (output-regulations) has generally been ill-received by the industry, which has felt strongly against being subjected to both measures at the same time.

Introduction of the scheme for recovery plans did not become *the* controversial element of the reform; However, the Commission's proposal gave rise to a debate, which to a certain extent reflected general cleavages within the Council in connection with the 2002 reform. The debate regarding the recovery plans related mainly to who should be in control of setting TACs and fishing effort limitations as well as the role the latter element should in general play.

The most heavily disputed part of proposal was the suggestion by the Commission that once a multi-annual plan had been adopted by the Council and the catch and effort limits for the first year decided, the Commission itself should in the following years (under the Management Committee procedure[15]) decide on catch and fishing effort limitations in accordance with the harvest rules set out in the plan (Commission of the European Communities 2002). This proposal was unacceptable for most member states *"as decisions on catch and fishing effort limits* [can] *not be reduced to an arithmetic automatism"* (Council of the European Union 2002b, p. 13). Only Sweden and the UK among the member states with fisheries interests were willing to consider the proposal (Council of the European Union 2002a; Council of the European Union 2002c). The proposal was consequently not accepted. It is possible that the Commission genuinely considered that the setting of TACs according to a harvest rule was a management decision, which the Council would be willing to turn over to the Commission. However, it is probably equally likely that this specific proposal should partially be seen as a bargaining chip in the larger context of reform. According to a high-ranking representative of DG Fish (Interview, November 2003) *"any Commission proposal is a sort of mixture of what we honestly believe should be the final outcome and what we need to propose in*

[15] A Management Committee consists of member states' representatives. If the Commission's decision is not supported by a qualified majority in the committee then the proposal will be dealt with by the Council. European Union. (2004). "The Legislative Process." Retrieved 15 June, 2006, from http://europa.eu/eur-lex/en/about/abc/abc_21.html.

order to get the final outcome that we want". However, this conflict was probably just as much rooted in the inter-institutional struggles than in fisheries. That one EU institution unilaterally suggests expanding its powers at the expense of another institution will almost always be ill-received by the institution that stands to loose power.

Another debated issue, which in part emerged from the negotiations in the Council rather from the Commission's original proposal, was a suggested obligation to use fishing effort limitations in addition to the traditional TACs in recovery plans. This idea found considerably support in the Council. In general Belgium, Germany, Denmark, Sweden, the Netherlands and the UK supported the Commission's idea and were of the opinion that fishing effort limitations could be used in parallel with TACs, which in isolation had not been effective. In contrast Spain, France, Greece and Portugal, Ireland, Italy and Finland were sceptical about the Commission's approach to fishing effort limitations (Council of the European Union 2002c). These member states were either in general sceptical about the value of effort limitations or at least sceptical about the usefulness of combining TACs and effort limitations. The compromise became the following provision: *"Recovery plans shall include limitations on fishing effort unless this is not necessary to achieve the objective of the plan"* (Council of the European Union 2002d, art. 5(4)). This in reality postponed the debate on this issue until the negotiations on individual recovery plans. However, considering the situation fishing effort limitations will have to be part of most recovery plans, which has also been the case so far.

Discussion

The general political cleavages within the Fisheries Council, which were also to some extent visible in the discussion over recovery plans, can be analysed and understood within a general framework proposed by Charles (1992) who argues that *"conflict can often best be understood as rising from natural tensions between three differing fishery paradigms (or 'world views'), each based on a different set of policy objectives"* (Charles 1992, p. 379). Charles (1992) identified the three paradigms to be: *conservation*, which focuses on the policy objective of conservation in the sense of resource maintenance; *rationalization*, which focuses on economic performance in the sense of productivity; and *social / community*, which focuses on community welfare in the sense of equity. The paradigms can be organised in a triangular model where each corner is occupied by a 'pure' paradigm. In between the pure positions all kinds of mixtures can in theory be found.

In general three different political positions[16] could be observed in the Council in connection with the reform:[17] The Commission, which does not have the right to vote but nevertheless plays an important role in Council negotiations and the decision-making process in general, proposed a radical reform, which bore the marks of a conservationist world view. One position was assumed by a network of member states, which informally referred to themselves as the 'Friends of Fish' (FoF), composed of Germany, the UK, Sweden, the Netherlands, and Belgium - and to a lesser extent Finland, which had opposing views to the rest of the network on especially the question of structural aid. FoF were in favour of a comprehensive reform, but less radical than the Commission in terms of conservationist focus. The network's nickname was chosen in response to the opposing group of member states who referred to themselves as 'Amis de la Pêche'[18] (AdlP). AdlP was

[16] Outside the main groupings in the Council, the Danish Presidency took the relatively neutral approach, which is required to facilitate compromises. Landlocked Luxembourg and Austria played negligible roles in the discussions.
[17] The section about the configuration of the Council in connection with the 2002 reform draws on Hegland, T. J. (2004). The Common Fisheries Policy - caught between fish and fishermen? Department of International Affairs. Aalborg, Aalborg University. MA European Studies: 117 (unpublished).
[18] In English: Friends of Fishing

composed of France, Spain, Ireland, Portugal and Italy and Greece and had been formed around December 2001 in response to the Green Paper and what they saw as an overly conservationist approach from the Commission. These member states, which to a large extent argued from a social / community perspective, engaged in an unprecedented level of coordination of strategies, meetings at high levels, publication of joint conclusions and counterproposals, etc.

In Figure 1 below we plot the positions within the Council using the triangular model of fishery paradigms developed by Charles (1992). The specific position of the different positions is merely indicative as it is hardly possible to place the players in the triangle in a way that cannot be contested, especially in a complicated process as the 2002 reform where also other factors not necessarily related to fisheries have an influence on the political position of a member state (e.g. jurisdiction of national authorities and balance of power between EU institutions). Moreover, it should be kept in mind that individual member states have their own hobbyhorses, which affiliation with either group does not change.

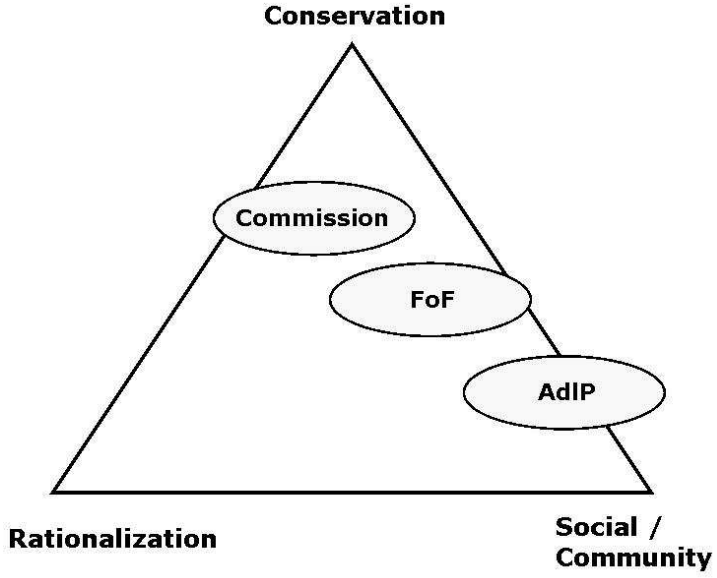

Figure 1 Council Configuration during the 2002 Reform

Basically all players in the reform debate placed themselves relatively far from the rationalization corner, which is explained by the fact that the fundamental principle of relative stability, which was not seriously contested during the reform, complicates any real attempts to reform the CFP towards the perspectives of the rationalization paradigm. However, at national level several member states have adopted part of the thinking and are increasingly using economic incentives to ensure a more appropriate utilization of the fish resources.

The Commission clearly positions itself closer to the conservation paradigm with its emphasis on recovery of stocks as a dominating concern. The AdlP group remains to a large extent in the path of two decades of decisions embedded in the social / community paradigm prioritising socio-economic concerns over conservation. This group has furthermore a predisposition towards public aid of various kinds to the sector – a view which also places this group further from the rationalization corner than the other parties. Finally, in many of the debates the FoF positioned themselves somewhere between the Commission and the AdlP – on most issues arguably slightly more towards the Commission.

Why the different member states assumed these positions and ended up in these coalitions is a study beyond what we can achieve in this paper. However, in short the fisheries sector is more important for AdlP member states than for FoF member states, where conservation interests are progressively gaining weight compared to fisheries interests. Furthermore, the FoF member states are in general net financial contributors to the EU, whereas the AdlP member states are net beneficiaries making them more positive towards subsidies in general. Moreover, the fleets of the AdlP member states are generally more in need of modernisation than those of the FoF member states. Finally, the FoF member states had more immediate experience with the crisis of resources, which has so far been most severe in the North Sea and the Baltic Sea.

What is interesting about the 2002 reform is the fact that it was actually possible to agree on a number of substantial changes in the CFP without causing significant debate, this was for instance the case in relation to multi-annual plans and to some extent the use of harvest control rules. Nevertheless, we would like to emphasise that the revision of the CFP in 1992 actually provided the instruments required to introduce recovery plans. This underlines that the successfulness of the administration of the CFP is primarily determined by the political will among member states to reduce fishing effort and confront and alter the present path of the CFP, rather than the availability or absence of specific instruments to move in this direction.

Perspectives

As the account provided in this article substantiates, the story of the CFP is to a large extent a story of failed administration and implementation. This failure can to a large extent be explained by path dependency in the decision-making process, which has resulted in insufficient action from decisions-makers in relation to altering the course of the CFP – and most importantly approaching the problem of overcapacity.

Nevertheless, it is our understanding that over (especially recent) years the balance in the Council between the paradigms presented above has shifted. The reform in 2002 may be the first step towards a break with the unsuccessful path of the CFP. That a path is broken will usually demand that an extraordinary event / process occurs, which creates a window-of–opportunity for 'path-change'. These events, which cause significant institutional changes and breaks in the path, are by Hall and Taylor (1996) referred to as critical junctures. Although the critical development in relation to the resource base managed under the CFP has been incremental, it is reasonable to argue that the present situation, where a number of commercially important fish stocks are on the verge of collapse, constitutes a critical juncture. This opens a window for reorientation.

Many years of failure in implementing the CFP has recently been demonstrated by the crisis where several fish stocks are close to collapse. Decision-makers are now questioning the present path and becoming motivated / forced to make changes and more actively reduce fishing capacity and activity in order to allow the stocks to rebuild. Already in 1992 the Commission expressed this opinion and in Report 91 it proposed a number of potentially effective ways to improve the situation. The Commission demonstrated thereby its move from the social / community corner towards the conservation corner of Charles' triangle. However, a decade later decision-makers in the Council mostly refrain from applying new instruments and remained strongly biased towards the easy, short-term political solution of pleasing the industry and the dependent communities – a behaviour which has now in reality turned into a tragic disservice to the same industry and communities.

The FoF member states have in recent years followed the example of the Commission and increasingly realised the need to change the implementation of the CFP to allow the stocks to

recover and maintain fishing communities for the future. In contrast, protection of fishing and community has to a larger extent remained the priority of AdlP member states; although an increasing understanding for the need for change can also be observed within this group. We can therefore especially over the later years observe a crisis-driven change in the centre of gravity for decision-making related to the CFP, see Figure 2.

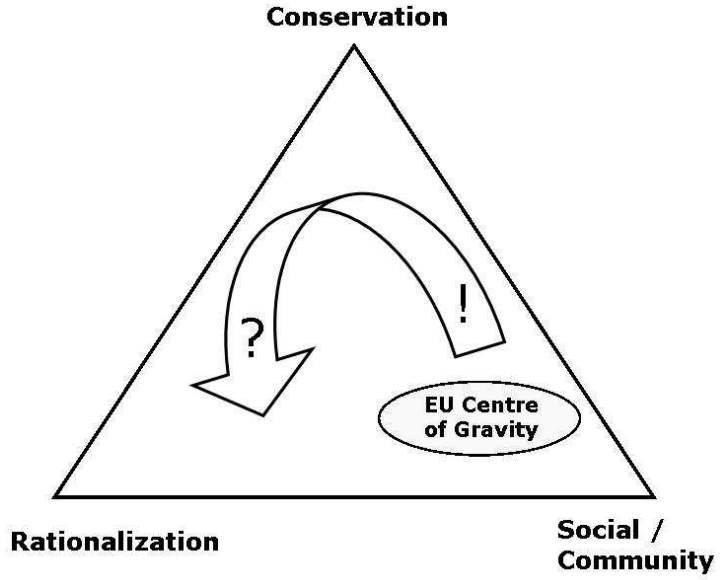

Figure 2 Changes in the Relative Strengths of Paradigms

As illustrated in Figure 2, the centre of gravity has moved and is increasingly moving from being firmly associated with the social / community corner in the early years of the CFP and especially in later years towards the conservation corner. Based on domestic developments in the member states, as well as developments in other parts of the world[19], it is likely that this development will eventually be supplemented by a move towards the rationalization corner.

Although we foresee that the centre of gravity will continue to move from the social / community corner towards the conservation corner, (potentially the rationalization corner) we are by no means certain of how far and in what pace - something only the coming years will show. As we have demonstrated in this article two decades of implementation of the CFP has not lead to an effective administration. Even though the need for change is increasingly becoming evident and recognised, the principle of relative stability and other elements has up to now in many respects kept the system in a dead-lock. The relative stability can probably be considered one of the most resilient elements creating path dependence. It is difficult to see how the CFP can be truly reorganised in an economically efficient manner without at least redefining the concept of relative stability. Whether the shock that the system has incurred will be enough to promote this development remains an open question.

We will conclude by repeating that the days-at sea instrument and the multi-annual TACs were in fact provided for already in the 1992 basic regulation. Those instruments closely resemble two of the 'new' elements adopted as part of the scheme for recovery and management plans in 2002. Thus

[19] Illustrated by the increasing spread of management systems building on some sort of private property rights over the resource base.

‘recovery plans’ in some form could in principle have been adopted ten years ago had the Council wished so. Our main point is once again to underline that the ineffective implementation and the administration of the CFP is to a large extent caused by lack of will or ability at the political level to act and take the required decisions. The problem is consequently not the absence of instruments. The way the centre of gravity has moved within the Council gives nonetheless grounds for optimism in regards to the available instruments actually being employed in the future.

Abbreviations

AdlP	Amis de la Pêche
CEC	Commission of the European Communities
CEU	Council of the European Union
CFP	Common Fisheries Policy
Commission	Commission of the European Communities
Council	Council of the European Union
DG Fish	Directorate General for Fisheries and Maritime Affairs
ECJ	Court of Justice of the European Communities
EEZ	Exclusive Economic Zone
EFZ	Exclusive Fishing Zone
EP	European Parliament
EU	European Union
FIFG	Financial Instrument for Fisheries Guidance
FoF	Friends of Fish
GRT	Gross Registered Tonnage
ICNAF	International Commission for the Northwest Atlantic Fisheries
kW	Kilowatt
MAGP	Multi-Annual Guidance Programme
NEAFC	North East Atlantic Fisheries Commission
nm	Nautical Miles
QMV	Qualified Majority Voting
SSB	Spawning Stock Biomass
TAC	Total Allowable Catch
UK	United Kingdom
VMS	Vessel Monitoring System

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